

Application number: 09/827788

Art Unit: 3625

Applicant: Khai Hee Kwan

Examiner: Naeem Haq

Title: Computer Network Method for conducting payment over a network by debiting and crediting telecommunication accounts.

Remarks in the claims

1. The examiner asserted that claims 33,34,37,38,40,41,44,45 and 47-59 are rejected under 35 USC 112 (First para).

Claims 33,40 and 53

In respect to claims 33,40 and 53, the applicant submits that the examiner had read a narrow literal interpretation of the claims in respect to the steps “the payment processor receiving at least a transfer amount, a payer’s account identifier, a payee’s account identifier upon initiation of a transaction over a first network from payer;” (also note that the examiner seems to be using a previous claim in the rejection) See examiner’s response in Page 4.

The examiner asserts reading Specification Page 14 at line 9 and 10, repeated here in underlined “As mentioned previously, when the payer click on the hyperlink linking to the payment processor via the web site 20, the unique identification of the merchant, cost and other relevant data are communicated through connection 51 via a telecommunication network 30 to the payment processor 40 where upon the payment processor replies in the form of a web page on its web server to the payer's browser and requesting for payer's mobile phone number.” (Applicant repeats line 5-10 for clarity) and challenge the applicant that the underlined step is AFTER upon initiation.

The question is how broadly can one skilled in the art read the words “upon initiation of a transaction” ? The applicant respectfully submits that it could read into all steps necessarily to satisfy the initiation which includes replies and requesting of payer’s mobile phone number (“payer’s account identifier”). “Upon Initiation” must be read

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broadly given these are the steps towards the transaction (making payment) and not merely a step. The word “Upon” is also defined as “immediately or very soon after” as per Webster Unabridged Dictionary. This is to say, one skilled in the art would recognize that initiation is not merely a single step immediately as suggested by the examiner, ie by merely clicking on a hyperlink but also include further steps such as in response “very soon after”. The examiner placed no evidence on record here to show that upon initiation must necessarily reveal to one skilled in the art that it means at the exact time of initiation only.

Notwithstanding the above which is open to interpretation, it is submitted that there is support for 35 USC 112 (First Para) for the subject matter ‘payer’s account identifier’ (ie mobile phone number) is provided to Payment Processor (Page 14 line 19-21 of Specification, see above) and in Original Claim 16 at date of filing as follows (see italic):

16. A method according to claim 1 wherein said communicating data indicative of the transaction from the point-of-sale to the centralized payment processor:

communicating a transaction message indicating the amount of the payment, *the identity of the telecommunication payer account holder*, the identity of the payee from the point-of-sale to the payment processor.

In the same vein, the applicant also answered the lack of antecedent for “payer’s account identifier” by showing above that it is clear one skilled in the art will recognized the form of “mobile number” is well known to be able to identifier the payer’s account. (see examiner assertion in page 3). The applicant did not show this in page 17 of previous submission as this element is so well founded in the entire specification.

Without admitting the correctness of the examiner’s assertion, the current amendment should put this issue to rest.

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The next outstanding issue is related to “whereby said payment processor is a single point of contact to process transactions between payer and payee having accounts with different telecommunication carrier providers without said providers communicating with each other over said networks.”

The examiner states those elements underlined above failed to comply with the written description requirement. The applicant respectfully disagrees. The examiner says that Figure 2 and 3 of the specification do not show ‘structural’ connections as claimed by the applicant. It is submitted, in Specification page 23 line 8-14, it specifically refers to Fig 2 and states it is connected by a network being a structure limitation. The lines read “Referring again to FIG. 2, the connection between the payment system (processor 40) and the merchant (point of sale) 20, telecommunication carriers (100, 110), Customer 70 can be a Frame Relay network or some other secure link, in a presently preferred embodiment, although various communications hardware and protocols can be used.”

It also states that “ The communications protocol over which the transaction message will be transmitted to and from the payment system to all parties can be, for example VOIP, TCP/IP or WAP” (underlined mine), clearly it shows a single point of contact being the payment system because messages are transmitted TO and FROM payment systems to ALL parties.

As to “without said providers communicating with each other over said networks.” the examiner also did not provide the necessary prima facie to show one skilled in the art fails to read this in the specification at the time of filing. As above in Specification page 23 line 8-14, again it shows the Payment Processor is receiving all the messages and transmitting the same to all parties which reasonably discerned to one skilled in the art that each parties has to communicating with payment server and not to each other. It is clear then one skilled in the art would be able to read this from the specification.

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The examiner states that the specification teaches payment processor can be integrated with a carrier. The applicant does not deny this but this element is not claimed here. In fact, the specification also says “It is important to note that this payment processor 40 may be coupled with or as part of an extension of at least one telecommunication carrier main central processor rather than as an individual entity as depicted here.” (emphasis mine at page 11, line 19-21) The word “MAY” is critical as compare with the word ‘MUST’ (if use which is denied) and it is clear one of the skilled is made aware that this may be used in alternative but is not necessary so.

Claims 34,41,54.

The applicant has previously amended them and support can be found at page 5 line 20 and page 11 line 8-9 of the specification as originally filed. Given the amendments were not entered (See Final Action Letter page 3) and no examination-in-reply or reasons were given by the examiner, the applicant presume this was an oversight and the previous rejection for the said claim is now moot.

The applicant respectfully submits this application is now ready for allowance.

Yours truly,

A handwritten signature in black ink, appearing to be 'KH KWAN', written in a cursive style.

K H KWAN